

Atlanta

Denver

Los Angeles

Philadelphia

**McKenna Long  
& Aldridge<sup>LLP</sup>**  
Attorneys at Law

303 Peachtree Street, NE • Suite 5300 • Atlanta, GA 30308  
Tel: 404.527 4000 • Fax: 404.527 4198  
www.mckennalong.com

San Diego

San Francisco

Washington, D C

Brussels

G SCOTT RAFSHOON  
(404) 527-4952

EMAIL ADDRESS  
srafshoon@mckennalong.com

September 9, 2004

**VIA FACSIMILE**  
**ORIGINAL VIA FEDEX**

Jeff S. Jordan, Esq.  
Supervising Attorney, Complaints Examination  
& Legal Administration  
Office of the General Counsel  
Federal Election Commission  
999 E. Street N.W., Room 657  
Washington, DC 20463

RECEIVED  
FEDERAL ELECTION  
COMMISSION  
OFFICE OF THE  
GENERAL  
COUNSEL

SEP 10 P 12:07

**Re: MUR 5480: Liane Levetan for Senate, Liane Levetan for Congress, Inc. and  
Dorothy E. Williams, as Treasurer**

Dear Mr. Jordan:

We are writing to respond to the complaint filed by Catheren M. Woolard and her congressional campaign committee, Friends of Catheren M. Woolard (collectively, the "Complainants"), against our clients, Liane Levetan for Senate (the "State Committee"), Liane Levetan for Congress, Inc. (the "Federal Committee") and Dorothy E. Williams, as Treasurer of the Federal Committee (together with the State Committee and the Federal Committee, the "Respondents"). The State Committee and the Federal Committee are the authorized Georgia and Congressional campaign committees, respectively, of Georgia State Senator Liane Levetan ("Senator Levetan").

On behalf of Respondents, we respectfully request that the Commission determine that the Complaint does not warrant the use of Federal Election Commission (the "Commission") resources and that it be dismissed at this stage pursuant to 2 U.S.C. §437(g)(a) and 11 C.F.R. § 111.7. If the Commission determines to assign the Complaint to a staff person, we request that the Commission find no reason to believe that the Respondents violated the Federal Election Campaign Act of 1971, as amended (the "Act"), and that the Commission vote to take no further action and close its file in this matter pursuant to 2 U.S.C. § 437(g)(a) and 11 C.F.R. § 111.9.

Complainants make three (3) allegations against Respondents: (1) that the State Committee

improperly paid for a public opinion poll that should have been paid for by the Federal Committee; (2) that Respondents failed to properly disclose the purchase of television advertising; and (3) that the Federal Committee failed to properly disclose Senator Levetan's primary filing fee. Each of the allegations is addressed below.

Complainants allege that Respondents violated the Act when the State Committee paid for a public opinion poll (the "Poll"). Complainants allege that (i) the Poll should have been paid for by the Federal Committee and thereafter reported by the Federal Committee on its pre-primary disclosure report filed with the Commission electronically on or about July 8, 2004 (the "Report"), and (ii) the failure to do so amounted to a transfer from the State Committee to the Federal Committee in violation of the Act. Complainants mischaracterize the facts and misconstrue their limited knowledge of these facts. The Complaint was an obvious attempt to gain political traction, but it does not support Complainants' contention that there was a violation to the Act. The facts concerning each allegation are detailed below and demonstrate that Respondents did not violate the Act.

Senator Levetan commissioned a poll by Cooper & Secrest Associates to help her decide whether to run for re-election to the Georgia State Senate. At the time she commissioned the Poll, Senator Levetan, a Democrat, had not yet decided whether to seek re-election to the State Senate.

The poll was paid for by the State Committee. The district boundaries of the Georgia State Senate had recently been redrawn and Senator Levetan found herself in a different Senate district, one that included another popular Democratic incumbent, State Senator Steve Henson. The poll evaluated Senator Levetan's performance ratings as a state senator in the old 40<sup>th</sup> Senate District and as chief executive officer of DeKalb County, and her chances in the new Senate district against Senator Henson.

In addition, in light of United States Representative Denise Majette's recent decision not to seek re-election, the Poll also included questions designed to evaluate Senator Levetan's strength as a potential candidate in the Fourth United States Congressional District of Georgia. Those questions were designed to test her candidacy for that seat as an alternative to Senator Levetan's running for re-election as a State Senator.

At the time Senator Levetan commissioned and paid for the Poll, she had not decided whether to become a candidate for any office. Eventually, Senator Levetan decided to seek the Fourth District Congressional seat. Complainants allege that the Poll constitutes the purchase of a "thing of value for the purpose of influencing an election for federal office." However, the Poll was not commissioned for such

purpose, but rather Senator Levetan sought the Poll to decide whether to seek re-election to the State Senate. The "reverse" of any such decision is deciding not to seek re-election, and quite reasonably, such a decision inevitably involves deciding whether to seek another office.

Before the Complaint was filed, Senator Levetan and Respondents decided to have the Federal Committee reimburse the State Committee for one half the cost of the Poll. While Respondents maintain that this reimbursement was not legally necessary, Respondents nevertheless determined to make this reimbursement in light of the political circumstances. Accordingly, on July 13, 2004, before Senator Levetan learned that Ms. Woolard had filed the Complaint, the Federal Committee reimbursed the State Committee for \$10,672.50 or half the cost of the Poll. A copy of the reimbursement check and the State Committee deposit slip are attached to this letter as Exhibit "A", and the Federal Committee's reimbursement of the State Committee will be reflected on the next report filed with the Commission.

Moreover, Senator Levetan has not attempted in any way to hide her use of State Committee funds for the Poll. Rather, as Complainants themselves point out, Senator Levetan disclosed the \$21,345 paid to Cooper and Secrest Associates on Senator Levetan's June 30<sup>th</sup> State Campaign Contribution Disclosure Report filed with the Georgia Secretary of State. The facts simply do not, as Complainants allege, "establish a pattern of omissions crafted to prevent the Commission from detecting the use of state Senate campaign funds to procure the April poll."

In the second allegation, Complainants contend that the Federal Committee failed to disclose the purchase of television advertising on the Report. This allegation is false. The Report accurately shows two disbursements made to Media Strategies, each for \$20,157. However, the entry for one of these disbursements incorrectly lists its purpose as "Production (Media)," while the other correctly lists the purpose as "TV-Cable Buy." Both of these should have been listed as "TV-Cable Buy." Those disbursements, aggregating \$20,314, will be correctly described on an amendment to the Report, which the Federal Committee will file shortly.

Complainants' third allegation is that the Federal Committee failed to disclose Senator Levetan's Georgia primary filing fee. Senator Levetan paid the Democratic Party of Georgia \$4,641.00 on April 27, 2004. Schedule D of the Report shows debts and obligations of the Federal Committee totaling \$12,847.82. These debts and obligations represented amounts Senator Levetan paid personally at the start of her campaign and for which she intends to be reimbursed by the Federal Committee in due course. The amount of the filing fee was inadvertently omitted from this total and will be included on the Schedule D included in the amended report. It should be noted, however, that these debts and obligations do not have

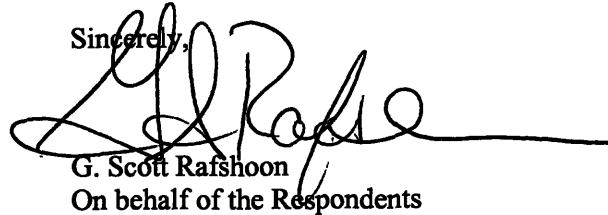
Jeff S. Jordan, Esq.  
September 9, 2004  
Page 4

to be independently itemized since they are all amounts owed to Senator Levetan. This was confirmed in a telephone conversation between me and the Commission analyst who reviewed the Report, Kamila Reminsky, on September 1, 2004.

For the reasons set forth here, the Respondents respectfully request that the Commission dismiss the Complaint without the need for further investigation. If the Commission determines that further investigation is necessary, Respondents request that the Commission find no reason to believe Respondents violated the Act and that the Commission take no further action and close its file in this matter.

If you have any questions or need further information, please do not hesitate to contact me at (404) 527-4952.

Sincerely,



G. Scott Rafshoon  
On behalf of the Respondents

GSR:gd

cc: Senator Liane Levetan



LIANE LEVETAN FOR SENATE

DISTRICT 40  
P O BOX 29882  
ATLANTA, GA 30359-9882

☐ CURRENCY ▶

☐ CCIN ▶

C \_\_\_\_\_  
H \_\_\_\_\_  
E \_\_\_\_\_  
K \_\_\_\_\_  
S \_\_\_\_\_

TOTAL FROM  
REVERSE ▶

\$

10672.50

10672.50

DEPOSIT TICKET

DATE

7-13-04

CHECKS AND OTHER ITEMS ARE ACCEPTED FOR DEPOSIT SUBJECT TO THE PROVISIONS OF  
THE UNIFORM COMMERCIAL CODE AND ANY APPLICABLE COLLECTION AGREEMENT  
DEPOSITS MAY NOT BE AVAILABLE FOR IMMEDIATE WITHDRAWAL

SouthTrust  
Bank  
Atlanta, GA

© HARVARD

LIANE LEVETAN FOR CONGRESS, INC.

P O BOX 29882  
ATLANTA, GA 30359-9882

1190

DATE July 13, 2004

64-25-610

PAY  
TO THE  
ORDER OF

LIANE LEVETAN FOR SENATE

\$ 10,672.50

Ten thousand six hundred seventy-two and 50/100-----DOLLARS

Per attached  
memo -

SouthTrust  
Bank

FOR 50% Reimbursement of Poll Expense

D. E. Williams  
Michael Williams

MP